

PREPARED TESTIMONY OF
KRISTINA NYGAARD, ASSISTANT GENERAL COUNSEL
HYDROELECTRIC LICENSING
FEDERAL ENERGY REGULATORY COMMISSION
BEFORE THE SUBCOMMITTEE ON WATER AND POWER
COMMITTEE ON ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE
JUNE 16, 1998

Mr. Chairman and Members of the Subcommittee:

My name is Kristina Nygaard, and I am Assistant General Counsel for Hydroelectric Licensing for the Federal Energy Regulatory Commission. I am appearing before you as a Commission staff witness and do not speak for individual members of the Commission.

Thank you for the opportunity to be here today to comment on three bills affecting the Federal Energy Regulatory Commission's regulation of non-federal hydropower projects pursuant to Part I of the Federal Power Act and related statutes.

H.R. 2165, H.R. 2217, and H.R. 2841 would extend the statutory deadline for the start of construction of three licensed projects.

Section 13 of the Federal Power Act requires that construction of a licensed project be commenced within two years of issuance of the license. Section 13 authorizes the Commission to extend this deadline once, for a maximum additional two years. If project construction has not commenced by this deadline, Section 13 requires the Commission to terminate the license.

The three projects in question are the 24-megawatt LeClaire Project (FERC NO. 3862) in Scott County, Iowa; the 4.6-megawatt San Miguel Project (FERC No. 9248) in San Miguel County, Colorado; and the 35-megawatt Meldahl Project (FERC No. 10395) in Bracken County, Kentucky. All three projects have received the maximum four years for commencement of construction. The bills would authorize (H.R. 2165) or require (H.R. 2217 and H.R. 2841) the Commission to extend the construction deadline for up to ten years from the date of licensing.

When the Congress has authorized extensions of the construction deadlines for individual licensed hydropower projects, we have not objected to extensions of up to ten years from the date the project was licensed. Because the three bills in question would not extend the deadline beyond the ten-year mark, we have no objections to them. Attached to my testimony are detailed comments about the bills and the projects they concern.

This concludes my prepared remarks. I would be pleased to answer any questions you may have.

APPENDIX TO TESTIMONY OF KRISTINA NYGAARD
ASSISTANT GENERAL COUNSEL FOR HYDROELECTRIC LICENSING
FEDERAL ENERGY REGULATORY COMMISSION

H.R. 2165, H.R. 2217, H.R. 2841

H.R. 2165

On March 1, 1994, the Commission issued a license to the City of LeClaire, Iowa, to construct and operate the 24-megawatt Project No. 3862, to be located at the U.S. Army Corps of Engineers' existing Lock and Dam No. 14, located on the Mississippi River in Scott County, Iowa. The original deadline for the commencement of project construction, February 28, 1996, was extended by the Commission to February 28, 1998, at the request of the licensee.

H.R. 2165 would authorize the Commission, upon the request of the licensee and in accordance with the good faith, due diligence, and public interest requirements of Section 13, to extend the deadline for commencement of construction for three consecutive 2-year periods, for a maximum of ten years from the issuance date of the license.

Commission Chairman James J. Hoecker submitted comments on H.R. 2165 to Chairman Schaefer (letter dated September 4, 1997), advising that, because the bill would not extend the commencement of construction deadline past ten years from the date the project was licensed, he did not object to the bill's enactment.

H.R. 2217

On January 30, 1992, the Commission issued a license to the City of Telluride, Colorado, to construct and operate the 4.6-megawatt San Miguel Project No. 9248, to be located on the San Miguel River in San Miguel County, Colorado. The original deadline, January 29, 1994, was extended by the Commission to January 29, 1996, at the request of the licensee. Because Telluride did not commence construction by that date, on June 14, 1996, the Commission denied the stay and terminated the license, effective 30 days later.

H.R. 2217 would direct the Commission to reinstate the project license, effective as of the date of its termination, and, at the licensee's request, to extend the commencement of construction deadline until January 30, 2002, which is 10 years after license issuance.

Commission Chairman James J. Hoecker submitted comments on

H.R. 2217 to Chairman Schaefer (letter dated January 22, 1998), advising that, because the bill would not extend the commencement of construction deadline past ten years from the date the project was licensed, he did not object to the bill's enactment.

H.R. 2841

On July 31, 1995, the Commission issued a license to the City of Augusta, Kentucky, to construct and operate the 35-megawatt Meldahl Project No. 10395, to be located at the Corps of Engineers' Captain Anthony Meldahl Project on the Ohio River in Bracken County, Kentucky. At the same time, the Commission denied applications for license filed by two competing applicants: the Cities of Vanceburg, Kentucky, and Hamilton, Ohio. The original deadline for the commencement of project construction, July 31, 1997, was extended by the Commission to July 31, 1999, at the request of the licensee. The City of Vanceburg did not seek rehearing of the license order; the City of Hamilton's rehearing request was denied.

H.R. 2841 would authorize the Commission, upon the request of the licensee and in accordance with the good faith, due diligence, and public interest requirements of Section 13, to extend the deadline for commencement of construction for three consecutive 2-year periods, for a maximum of ten years from the issuance date of the license.

Commission Chairman James J. Hoecker submitted comments on H.R. 2841 to Chairman Schaefer (letter dated April 17, 1998), advising that, because the bill would not extend the commencement of construction deadline past ten years from the date the project was licensed, he did not object to the bill's enactment.